

REMARKS

Favorable reconsideration of the application, as currently amended and in view of the following remarks, is respectfully requested.

Claims 1-7, 10-12, and 15-21 are currently pending in the application. Claims 8, 9, 22 and 23 have been canceled. Claims 1, 10, and 15 have been amended. Basis for the amendment can be found at least in paragraphs [0012], [0023], and [0056]-[0058]. No new matter has been added.

By way of summary, the Official Action presents the following issues. Claims 1-12 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-12 and 15-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lange (US 2002/0147670) in view of General Accounting Office (“Catastrophic Insurance Risks, The Role of Risk-Linked Securities and Factors Affecting Their Use”, dated September 2002; hereinafter “GAO”).

Turning first to the rejection of Claims 1-12 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, the Official Action takes the position (page 3) that Applicant’s method claims fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be reformed without the use of a particular apparatus. In response, Applicant notes that the new Federal Circuit decision referred to but not listed appears to be the recent decision of *In re Bilski* 88 USPQ2d 1385 (Fed. Cir. 2008).

In response to the rejection, Applicant has amended independent Claims 1 and 10 to cite that the method is implemented on electronic terminal at a reinsurer and recites different steps is being carried out at the electronic terminal of the reinsurer. Accordingly, Claims are now tied to a specific machine, i.e., the electronic terminal, and are now statutory under *In re Bilski*. The basis for the amendment can be found at least in paragraphs [0056]-[0058] of the

specification. Accordingly, Applicant requests that the rejection of Claims 1-12 under 35 U.S.C. § 101 as being non-statutory be reconsidered and withdrawn.

Turning next to the rejection of Claims 1-12 and 15-23 under 35 U.S.C. § 103 as unpatentable over Lange in view of GAO, the Official Action takes the position (pages 4 and 5) that GAO discloses establishing one or more risk classes, with each risk class representing one or more natural catastrophic risks, with each risk class being recurrently issuable as risk instruments providing return on investment. The Official Action relies on Fig. 4, found on page 14.

In response, Applicant notes that Fig. 4 is a graph of reinsurance prices and gives examples such as Hurricane Andrew and the Northridge earthquake. However, the graph does not describe risk classes being recurrently issuable as risk instruments providing return on investment. The claims recite that establishing one or more risks classes, with each risk class presenting one or more natural catastrophic risks. Each risk class is recurrently issuable as risk instruments providing a return on an investment. The amount of return for a risk instrument is contingent upon the occurrence of a realization event of the corresponding represented natural catastrophic risk. Lange does not disclose or suggest establishing one or more risk classes, with each risk class representing one or more natural catastrophic risks, with each risk class being recurrently issuable as risk instruments providing return on investment. Instead, Lange describes customary insurance of property which is obtained to compensate an owner for damage which may be caused by such things as floods, hurricanes, etc. Simply stated, while a conventional insurance policy covers damage of property, it does not provide the return on an investment based on the occurrence of a natural catastrophe, as claimed. Accordingly, Applicant believes that the limitation regarding establishing one or more risk classes, with each risk class representing one or more natural catastrophes, is not taught by either Lange or the GAO report.

In any event, to advance the prosecution of the application, Applicant has incorporated the limitations of Claims 8 and 9 into each of the independent claims and has additionally added language to clarify that the index of physical parameters is issued by a neutral party; wherein said physical parameters are related to but separate from a catastrophic loss.

Turning back to Lange, the Official Action relies on paragraphs [0053], [0062], [0221], [0222], and [0057] of Lange. Paragraph [0053] of Lange provides a summary of conducting demand-based trading including the steps of establishing a plurality of defined states and a plurality predetermined termination criteria, and allocating a payout.

Paragraph [0062] of Lange refers to the method of estimating state probabilities in a demand-based system, and performing demand-based trading. This does not meet the limitations of Applicant's independent claims with respect to occurrence of an event meeting a predetermined impact threshold being determined according to an index parameter issued by a neutral party wherein said physical parameters are related to but separate from catastrophic loss. Similarly, turning to paragraphs [0221] and [0222] of Lange, Applicant finds that paragraph [0221] explains policy termination criteria. Paragraph [0222] does refer to closing a trading period based on a certain number of catastrophic events such as a fourth hurricane or an earthquake of a particular magnitude on a Richter scale. However, this is a description of closing a trading period. This is not a description of an occurrence or an event meeting the predetermined impact threshold according to an index of physical parameters. Paragraph [0527] relates to catastrophic outcomes, which refers to loss. However, this paragraph does not recite parameters issued by a neutral party where the parameters are related to but separate from catastrophic loss.

From all of the above, Applicant's claims patentably distinguish from the combined teachings of Lange and GAO. The application is now believed to be in condition for allowance. An early indication to that effect is respectfully requested.

Respectfully submitted,

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